

of dollars have been spent on welfare programs. Studies show that half of AFDC families remain on welfare for more than 10 years and many are stuck there for life. The current system has made work financially unfeasible in many States. Violence in our society has increased. Felonies per capita have tripled as have violent crime arrests for juveniles, while welfare spending has increased 800%.

Mr. Speaker, the welfare system is a national disgrace. It is outrageous and arrogant for the President to tell America that Governors and State governments cannot be trusted. It is particularly incredulous since he has not presented a plan of his own and continues to leave the answer to many key questions purposely ambiguous.

# ON THE EXPATRIATION TAX ACT OF 1995

**HON. BILL ARCHER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 1995

Mr. ARCHER. Mr. Speaker, in March when the Congress was working to restore a health insurance deduction for millions of self-employed persons prior to the time when tax returns were due, that urgent legislation, H.R. 831, was threatened with unnecessary delay by the desire of some to include without adequate deliberation a proposal by President Clinton to impose a tax on individuals who give up their U.S. citizenship or residence. As we learned during hearings in the Committee on Ways and Means and the Senate Finance Committee, the President's proposal raised a number of serious concerns including the scope of the proposal, human rights and constitutional issues, issues of administrability, the potential for double taxation, the application of the proposal to interests in trust, the impact of the proposal on the free flow of capital into the United States, and the impact on future U.S. tax treaty negotiations. In light of these concerns, and in light of the administration's failure to provide the Congress requested information justifying the legislation, the Conference Committee determined that the non-partisan Joint Committee on Taxation should provide the Congress a complete report on the issues presented by proposals to modify the tax treatment of expatriation prior to our taking any action in this area.

Despite the incredible time constraints placed on the Joint Committee on Taxation, it was able to prepare what I believe is one of the most comprehensive studies of a tax issue the Congress has received in many years. The joint committee's study, delivered on June 1, revealed that the administration had greatly exaggerated the amount of tax-motivated expatriation, that the administration's estimate of the revenues that could be raised by its proposed was significantly overstated, that the administration's proposal to combat such expatriation was seriously flawed, and that the administration's proposal could encourage tax-motivated expatriation. The joint committee also found that other proposals based on the administration's proposal had similar flaws and would raise even less revenue. One such proposal, made by the House Minority leader, would lose revenue because its October 1, 1996 effective date would have provided an

18 month period during which wealthy individuals would be encouraged to give up their citizenship to avoid taxes.

In order to address the small and fairly level amount of tax-motivated expatriation that does exist, and to address certain other problems revealed by its study, the Joint Committee on Taxation made several recommendations for improvements to existing law. Today, I am introducing the Expatriation Tax Act of 1995 which is based on the recommendations made by the joint committee.

## EXPLANATION OF LEGISLATION

### 1. INDIVIDUALS COVERED

For purposes of the present-law expatriation tax provisions (secs. 877, 2501(a)(3) and 2107), and U.S. citizen who relinquishes his or her citizenship would be deemed to have expatriated with a principal purpose of avoiding taxes if: (a) the individual's average annual U.S. Federal income tax liability for the 5 years preceding the year of expatriation was greater than \$100,000, or (2) the individual's net assets (valued at their fair market value) were \$500,000 or more on the date of expatriation. These dollar amounts would be indexed for inflation beginning after 1996.

However, an individual would not be subject to the expatriation tax provisions if such individual did not have a principal purpose of tax avoidance and is within one of the following categories: (a) the individual was born with dual citizenship and retains only the non-U.S. citizenship; (b) the individual becomes a citizen of the country in which the individual, the individual's spouse, or one of the individual's parents, was born; (c) the individual was present in the United States for no more than 30 days during any year in the 10-year period immediately preceding the date of expatriation; (d) the individual relinquishes his or her citizenship before reaching the age of 18½; or (e) any other category of individuals prescribed by Treasury regulations. To qualify for this exception, the individual must request a ruling from the Internal Revenue Service within one year from the date of expatriation. With respect to individuals who committed an expatriating act between February 6, 1994 and February 6, 1995 but had not applied for a certificate of loss of nationality ("CLN") as of February 6, 1995, the individual must request such a ruling within one year of the date of enactment.

### 2. ITEMS SUBJECT TO SECTION 877

The scope of the items subject to section 877 would be expanded to include property obtained in certain transactions that occur within 10 years of expatriation and on which gain or loss is not recognized. If an expatriate exchanges any property that would produce U.S. source income for property that would produce foreign source income, then such exchange shall be treated as a sale for the fair market value of the property. However, this rule would not apply if the individual enters into an agreement with the Secretary of the Treasury specifying that any income or gain derived from the property acquired in the exchange during the 10-year period after the expatriation shall be treated as U.S. source income. The Secretary of Treasury may provide through regulations for similar treatment for transfers that occur within 5 years immediately prior to the date of expatriation.

In addition, section 877 would be expanded to include certain income and gains derived from a foreign corporation that is more than 50 percent owned, directly or indirectly, by the expatriate on the date of expatriation or within 2 years prior to the expatriation date. Such inclusion would be limited to the amount of earnings and profits accrued prior

to the date of expatriation while such ownership requirement is satisfied.

### 3. SPECIAL RULE FOR SHIFT IN RISKS OF OWNERSHIP

For purposes of determining the tax under section 877, the 10-year period is suspended with respect to an asset during any period in which the individual's risk of loss with respect to such asset is substantially diminished.

### 4. DOUBLE TAX RELIEF

In order to avoid double taxation, a credit against the U.S. tax imposed under the expatriation tax provisions would be provided for any foreign income, gift, estate or similar taxes paid with respect to the items subject to such taxation. This credit is available only against the tax imposed solely as a result of the expatriation tax provisions, and cannot be used to offset any other U.S. tax liability.

### 5. REQUIRED INFORMATION SHARING

The State Department would be required to collect relevant information from the expatriates, including the social security numbers, forwarding foreign addresses, new country of residence and citizenship and, in the case of individuals with a net worth of at least \$500,000, a balance sheet, and provide such information routinely to the IRS. An expatriate's failure to provide such information would result in the imposition of a penalty for each year the failure continues equal to the great of (a) 5 percent of the individual's expatriation tax liability for such year, or (b) \$1,000.

### 6. TREASURY REPORT

The Treasury Department would be directed to undertake a study of the compliance of U.S. citizens and green-card holders residing outside the United States with tax return responsibilities and shall make recommendations regarding the improvement of such compliance. The findings of such study and such recommendations should be reported to the House Committee on Ways and Means and the Senate Committee on Finance within 90 days of the date of enactment.

### 7. EFFECTIVE DATE

The provisions of the bill generally would apply to any individual who loses U.S. citizenship on or after February 6, 1995. The date of loss of citizenship would remain the same as under present law (i.e., it would be the date of the expatriating act). However, a special transition rule would apply to individual who had expatriated within one year prior to February 6, 1995 but had not applied for a CLN as of such date. Such individuals would be subject to the new expatriation tax provisions as of the date of application for the CLN, but would not be retroactively liable for U.S. income taxes of their worldwide income.

TRIBUTE TO GEN. GORDON R.  
SULLIVAN

**HON. IKE SKELTON**

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 1995

Mr. SKELTON. Mr. Speaker, today I wish to congratulate Gen. Gordon R. Sullivan, Chief of Staff of the U.S. Army, who will retire on June 20, 1995. General Sullivan's career spans 36 years in which he has given selfless and distinguished service as a soldier, leader, and visionary adviser to both the President and this Congress. Others have already entered a list of his accomplishments into the public record.